

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Anthony L. Napier,

Case No. 3:04CV7730

Plaintiff

v.

ORDER

Roadway Freight, Inc.,

Defendant

This is a suit by a former employee of the defendant Roadway Express. After defendant filed a motion for partial summary judgment, the plaintiff filed a motion to dismiss his only federal cause of action and to remand the remaining state claims to the Lucas County Court of Common Pleas. Defendant opposes the motion to remand.

The case shall be remanded. The only thing that thereby is lost is time. The discovery appears to have been completed, and need not be repeated. On refiling in state court, it appears likely that only one, rather than two claims will be asserted, in light of defendant's comments about the likely non-viability of one of those claims. It is likely that the parties, on first appearing for an initial pretrial in state court, can announce that they are ready, or almost ready, for trial, once defendant refiles and plaintiff responds to a renewed summary judgment motion [if such is filed].

The party who loses most by lost time is the plaintiff, who seeks to recover damages for an allegedly wrongful termination. If he ultimately does recover, he will have waited longer than he might have had this case remained here. He is willing to accept that consequence. That being so, and there being no apparent *bona fide* prejudice to the defendant from remand, it is hereby

ORDERED THAT

1. Plaintiff's third cause of action be, and the same hereby is dismissed, with prejudice; and
2. This case be, and the same hereby is remanded to the Court of Common Pleas for Lucas County, Ohio.

So ordered.

s/James G. Carr
James G. Carr
Chief Judge